

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5698 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KANUBHAI PURSHOTTAMBHAI PATEL

Versus

STATE OF GUJARAT

Appearance:

MR GIRISH PATEL for Petitioner

MR MUKESH PATEL for Respondents No. 1, 2

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 17/02/98

ORAL JUDGEMENT

1. This petition under Article 226 of the Constitution is directed against the order dated 29th August, 1986, annexure 'A' to this petition under which the petitioner, an Executive Engineer in the office of respondents was ordered to be removed from the office.
2. The learned counsel for the petitioner very fairly submitted that this petition has been filed

basically on two contentions. The first contention is regarding the non-supply of the inquiry report to the delinquent officer and second the findings recorded against him by the disciplinary authority in its order removing the petitioner from services are perverse.

3. So far as the first contention is concerned, the same no more survives in view of the decision of the larger Bench of the Hon'ble Supreme Court in the case of Managing Director, E.C.I.L., Hyderabad vs. B. Karunakaran reported in JT 1993 (6) SC 1 as well as the latest decision of the Hon'ble Supreme Court in the case of Secretary to Govt. vs. A.C.J. Britto reported in 1997 (3) SCC 387. So the first contention which has been raised by the learned counsel for the petitioner need not be gone into.

4. This Court sitting under Article 226 of the Constitution of India is not sitting as an appellate authority above the decision of the disciplinary authority. This Court cannot go into the question of appreciation of evidence nor the sufficiency of evidence for proving the charges framed against the delinquent officer. This Court can interfere in the matter of the departmental inquiry and particularly with the findings of the disciplinary authority of the guilt of the delinquent officer only where the findings are perverse. The learned counsel for the petitioner though raised this contention but unable to show this Court to its satisfaction that how the findings recorded of guilt of the petitioner by the disciplinary authority in this case are perverse. The findings can only be considered to be perverse when there is no material evidence on the record in support thereof or where the disciplinary authority has altogether ignored the material piece of evidence from consideration. The learned counsel for the petitioner unable to illustrate before this Court how the findings are perverse or there was no evidence on the record of the departmental inquiry against the petitioner, and as such, the findings recorded by the disciplinary authority cannot be said to be perverse. The findings of the disciplinary authority is certainly based on the evidence which has been produced on the record, and as such, no interference can be made therein by this Court sitting under Article 226 of the Constitution.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this Court stands vacated.

zgs/-